

November 19, 2001

**PROTECTION AGAINST GENETIC DISCRIMINATION  
IN FEDERAL EMPLOYMENT**

**1. PURPOSE:** This Veterans Health Administration (VHA) Directive issues policy prohibiting discrimination against employees based on protected genetic information, or on information about a request for, or the receipt of, genetic services.

**2. BACKGROUND:** Equal opportunity laws and the Department of Veterans Affairs (VA) regulations prohibit discrimination against employees and applicants for employment based on protected genetic information, or information about a request for or the receipt of genetic services. Executive Order 13145, To Prohibit Discrimination in Federal Employment Based on Genetic Information, became effective on February 8, 2000.

**3. POLICY:** It is VHA policy to provide equal employment opportunity (EEO) in Federal employment and to prohibit discrimination based on protected genetic information.

**4. ACTION**

a. VHA Central Office and field station officials must develop EEO policy to cover all qualified persons to prohibit discrimination against employees or applicants for employment based on protected genetic information, or information about a request for, or the receipt of, genetic services.

b. Specifically, Key Officials must not:

(1) Discharge, fail to or refuse to hire, or otherwise discriminate against any employee with respect to the compensation, terms, conditions, or privileges of employment of that employee.

(2) Limit, segregate, or classify employees in any way that would deprive or tend to deprive any employee of employment opportunities or otherwise adversely affect that employee's status.

(3) Request, require, collect, or purchase protected genetic information with respect to an employee, or information about a request for, or the receipt of, genetic services by such employee.

(4) Disclose protected genetic information with respect to an employee or information about a request for, or the receipt of, genetic services by such employee except:

(a) To the employee who is the subject of the information, at the employee's request; or

(b) To an occupational or other health researcher, if the research conducted complies with the regulations and protections provided for under Title 45 Code of Federal Regulations (CFR) Part 46;

(c) If required by Federal statute, congressional subpoena, or an order issued by a court of competent jurisdiction, except that if the subpoena or court order was secured without the

**THIS VHA DIRECTIVE EXPIRES NOVEMBER 30, 2006**

## **VHA DIRECTIVE 2001-069**

**November 19, 2001**

knowledge of the individual to whom the information refers, the employer must provide the individual with adequate notice to challenge the subpoena or court order, unless the subpoena or court order also imposes confidentiality requirements; or

(d) To executive branch officials investigating compliance with this order, if the information is relevant to the investigation.

c. Maintain protected genetic information or information about a request for or the receipt of genetic services in general personnel files; such information must be treated as confidential medical records and kept separate from personnel files.

d. Key Officials must:

(1) Ensure timely processing of all external civil rights and/or equal opportunity discrimination complaints.

(2) Issue local guidelines consistent with the requirements of this VHA non-discrimination directive for Federally conducted or Federally assisted programs.

(3) Assign sufficient resources to effectively carry out the responsibilities sited in this Directive.

(4) Ensure that employees assigned responsibilities under this program are properly trained and have adequate time and assistance to carry out their responsibilities.

## **4. REFERENCES**

a. Executive Order 13145, To Prohibit Discrimination in Federal Employment Based on Genetic Information.

b. The Rehabilitation Act of 1973, Section 501.

**6. FOLLOW-UP RESPONSIBILITY:** The Director, Management Support Office, EEO/Affirmative Employment Team (10A2E), is responsible for the contents of this Directive.

**7. RESCISSIONS:** This VHA Directive expires November 30, 2006.

S/ Tom Sanders for  
Thomas L. Garthwaite, M.D.  
Under Secretary for Health

DISTRIBUTION: CO: E-mailed 11/20/2001  
FLD: VISN, MA, DO, OC, OCRO, and 200 – E-mailed 11/20/2001